

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FAA CONCORD T, INC., D/B/A
CONCORD TOYOTA
Employer

and

Case 32-RC-255130

MACHINISTS AUTOMOTIVE TRADES
DISTRICT LODGE NO. 190, MACHINISTS
LOCAL 1173
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹ The Board also remands

¹ In denying review, we agree with the Regional Director's decision that a self-determination election was appropriate, as modified and corrected below. We agree with the Regional Director's overall conclusions that the petitioned-for voting unit of advisors is an identifiable, distinct segment so as to constitute an appropriate voting group and that it shares a community of interest with the existing unit of technicians and parts employees. See, e.g., *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990). The RD erred, however, in finding that the advisors' shared community of interest necessarily showed that they are an identifiable, distinct segment so as to constitute an appropriate voting group; even where a proposed voting group shares a community of interest, it is not an identifiable, distinct segment if it is an arbitrary segment. See *Capital Cities Broadcasting Corp.*, 194 NLRB 1063, 1063–1064 (1972). Addressing "identifiable, distinct segment" separately, we conclude that the advisors are not an arbitrary segment because they perform the same essential task of evaluating and ordering necessary parts and services; generally perform the same types of tasks (e.g., initial vehicle inspections, writing repair orders, ordering necessary parts, and dispatching the repair order to the appropriate technician team leader); have the same general qualifications; and perform tasks that no other classification performs. By contrast, the employees excluded from the voting group—cashiers and a warranty administrator/clerk—perform payment and warranty transactions with customers and have no role in explaining or recommending repairs. The voting group of advisors is consequently not arbitrary.

We also correct two additional errors in the Regional Director's analysis. First, she erred in treating employee shifts and schedules, and method of compensation, as separate relevant factors in addition to the "terms and conditions of employment" community-of-interest factor. See *Buckhorn, Inc.*, 343 NLRB 201, 204 (2004) (work schedules); *Omni International Hotel*, 283 NLRB 475, 475 & fn. 2 (1987) (tips and hourly wages). Second, she erred in analyzing "centralized control of labor relations" as a traditional community-of-interest factor in self-determination elections, because that factor is not relevant where, as here, the unit is a single-facility, not a multi-facility, unit.

this matter to the Regional Director with a directive to issue a certification of results, which is the proper certification in any self-determination election, irrespective of the results. See *Public Service Co. of Colorado*, 365 NLRB No. 104, slip op. at 1 (2017).

MARVIN E. KAPLAN,	MEMBER
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WILLIAM J. EMANUEL,	MEMBER
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LAUREN McFERRAN,	MEMBER
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Dated, Washington, D.C., September 22, 2020.